

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

IRA RESOURCES, INC. FBO
GARY S. HANN IRA ACCOUNT NO. 21195
BY SOLE BENEFICIARY GARY S. HANN,

Plaintiff,

vs. Case No. 09-CV-13567
HON. GEORGE CARAM STEEH

DEUTSCHE BANK NATIONAL TRUST, et al.,
Michigan LLC,

Defendant.

ORDER DENYING MOTION TO SUBSTITUTE GARY HANN AS PLAINTIFF (# 4)
AS ON RECONSIDERATION

On September 14, 2009, this court granted Gary Hann's application to proceed without the prepayment of fees, or in forma pauperis ("IFP"), then dismissed IRA Resources, Inc.'s claims upon determining that the claims were frivolous and failed to state a claim on which relief may be granted. 28 U.S.C. § 1915(e)(2)(B)(i) and (ii); McGore v. Wrigglesworth, 114 F.3d 601, 612 (6th Cir. 1997). The court dismissed the claims on finding that: (1) Hann, a non-attorney, could not represent plaintiff IRA Resources, Inc.; and (2) the court lacked federal question subject matter jurisdiction under 28 U.S.C. § 1331 because the complaint failed to allege a plausible federal claim under the Employee Retirement Income Security Act ("ERISA"), 29 U.S.C. § 1001, et seq., the "IRS CODE" or "federal banking and TARP and TALF and other regulations[.]" Hann now moves to substitute himself as the plaintiff, strike paragraph 42 of his complaint referring to "federal

banking and TARP and TALF and other regulations," and to proceed with this lawsuit because his claims are non-frivolous.

The court construes Hann's motion as on reconsideration. Generally, and without restricting the court's discretion, the court will not grant a motion for reconsideration that merely presents the same issues ruled upon by the court, either expressly or by reasonable implication. The movant must not only demonstrate a palpable defect by which the court and the parties have been mislead but also show that correcting the defect will result in a different disposition of the case. E.D. Mich. LR 7.1(g)(3).

Substituting Hann as the plaintiff, and striking paragraph 42 of the complaint, will not cure the fundamental defect of a lack of federal subject matter jurisdiction. Hann's conclusionary assertion that his claims are non-frivolous does not establish a palpable error. Accordingly,

Hann's motion is hereby DENIED.

SO ORDERED.

Dated: December 3, 2009

s/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on December 3, 2009, by electronic and/or ordinary mail.

s/Josephine Chaffee
Deputy Clerk